FILED

09 MAY -7 PM 3:56

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

Daniel T. LeBel (State Bar No. 246169)
dlebel@finkelsteinthompson.com
FINKELSTEIN THOMPSON LLP
100 Bush Street, Suite 1450
San Francisco, CA 94104
Telephone: (415) 398-8700
Facsimile: (415) 398-8704

Counsel for Plaintiff Howard Margulies

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

HOWARD MARGULIES, on behalf of himself and all others similarly situated,

Plaintiff,

v.

SEQUENOM, INC, HARRY STYLLI, and PAUL HAWRAN

Defendants.

Case No. '09 CV 990 JAH WMc

CLASS ACTION COMPLAINT

BY FAX

JURY TRIAL DEMANDED

Plaintiff Howard Margulies ("Plaintiff") alleges the following based upon the investigation of Plaintiff's counsel, which included a review of United States Securities and Exchange Commission ("SEC") filings by Sequenom, Inc. ('Sequenom" or "Company") as well as regulatory filings and reports, press releases and other public statements issued by the Company, and media reports about the Company. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein, after a reasonable opportunity for discovery.

ORIGINAL

NATURE OF THE ACTION

1. This is a securities class action on behalf of all persons or entities who purchased the publicly traded securities of Sequenom during the period between June 3, 2008 and April 29, 2009 (the "Class Period"). As set forth more fully herein, at all times during the Class Period, Defendants participated in a scheme to artificially inflate the prices of Sequenom securities.

JURISDICTION AND VENUE

2. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act [15 U.S.C. §78j(b) and 78t(a)] and Rule 10b-5 promulgated thereunder by the Securities and Exchange Commission ("SEC") [17 C.F.R. §240. l0b-5].

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and Section 27 of the Exchange Act [15 U.S.C. §78aa].

4. Venue is proper in this District pursuant to Section 27 of the Exchange Act and 28 U.S.C. § 1391(b), as Sequenom is headquartered in this District, and many (if not substantially all) of the acts and practices complained of herein occurred in substantial part in this District.

5. In connection with the acts alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

PARTIES

6. Plaintiff Howard Margulies is an individual who resides in North Easton, MA. Plaintiff purchased shares of Sequenom common stock during the Class Period at artificially inflated prices and was damaged thereby, as reflected in the certification filed herewith.

7. Defendant Sequenom is a Delaware company with its principal executive offices located at 3595 John Hopkins Court, San Diego, CA 92121.

8. Defendant Harry Stylli ("Stylli") was, at all relevant times, President and Chief Executive Officer of Sequenom and a director of the Company since June 2005.

9. Defendant Paul Hawran ("Hawran") was, at all relevant times, Chief Financial Officer of the Company, and has been since April 1, 2007.

10. Stylli and Hawran are collectively referred to herein as the "Individual Defendants."

CLASS ACTION ALLEGATIONS

11. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all those who purchased the publicly traded securities of Sequenom during the period between June 3, 2008 and April 29, 2009 (the "Class Period"), inclusive and who were damaged thereby (the "Class") Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

12. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Sequenom common shares were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or thousands of Class members. Record owners and other members of the Class may be identified from records maintained by Sequenom or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

13. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class have been similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

14. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

15. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether Defendants acted knowingly and recklessly; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

16. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

17. According to the *Wall Street Journal*, during the Class Period, the majority of Sequenom's market value has been tied to the potential of its not-yet-released SEQureDx prenatal tests (a noninvasive prenatal Down Syndrome test), projected to have a huge market in the future.

18. The SEQureDx test had been originally scheduled to reach the market by June 2009.

19. In repeated statements during the Class Period, Sequenom touted the results of internal testing purportedly demonstrating the efficacy of SEQureDx.

20. As the Company later revealed, such statements were false and misleading when made. In reality, the internal testing was irreparably tainted by Sequenom's mishandling of the data upon which that testing relied, and failed entirely to demonstrate the efficacy of SEQureDx.

False and misleading when made Statements by Defendant

21. In a June 5, 2008 form 8-K filed with the SEC, Sequenom made the following statement:

> On June 3, 2008, the registrant announced positive results from screening studies using the registrant's noninvasive circulating cell-free fetal nucleic acid SEQureDx™ Technology, which enables the detection of fetal aneuploidy, including Down syndrome, from maternal blood. The registrant reported that in blinded studies performed at the registrant involving 200 clinical samples collected both prospectively and retrospectively, the registrant's proprietary test for Down syndrome correctly identified 100% of all Down syndrome samples, without any false-positive outcomes. The registrant reported that population coverage for the test had improved to at least 93% of the U.S. population. The registrant plans to initiate a multi-site validation study consisting of several thousand samples in the fourth quarter of 2008 and to launch its Down syndrome test as a laboratory developed test in the United States in the first half of 2009.

22. This statement was false and misleading when made because it did not disclose that the company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

23. On or about June 23, 2008, Sequenom released a Prospectus in connection with an offering of 5,500,000 shares of common stock. That Prospectus stated:

> Our research and development efforts in molecular diagnostic products are focused on the development of non-invasive diagnostics (SEQureDx) for use on the MassARRAY system and other platforms. Initially, we are focused on providing this technology, which is non-invasive using a simple maternal blood draw, for prenatal diagnostics. Our other diagnostic tests are also planned to be non-invasive and are expected to use simple blood draws from patients rather than invasive procedures such as surgery. We plan to initially commercialize this technology through laboratory partners in the form of

> Laboratory Developed Tests, or LDTs, also known as "Home Brews," which is the predominant approach used for current tests such as serum screening and invasive prenatal tests. In addition, following acquisition or build-out, we plan to commercialize this technology through our own CLIA (Clinical Laboratory Improvement Amendments, 1988) licensed laboratory. Concurrent with our LDT commercialization and revenue building activities, we plan to conduct the development activities necessary to file submissions with the Food and Drug Administration, or FDA, seeking approval for selected diagnostic tests.

24. This statement was false and misleading when made because it did not disclose that the company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

25. On July 30, 2008, Sequenom released a press release including the following passage:

> *Down Syndrome Screening Study Results*: In early June, we announced positive results from screening studies using our noninvasive circulating cell-free fetal (ccff) nucleic acid SEQureDx technology, which enables the detection of fetal aneuploidy, including Down syndrome from maternal blood. We reported that in blinded studies performed at Sequenom involving approximately 200 clinical samples collected both prospectively and retrospectively, our proprietary test for Down syndrome correctly identified all Down syndrome samples, without any false-positive outcomes. Currently available serum-testing options having detection rates between 70% to 90%, and false-positive rates as high as 5%.

26. This statement was false and misleading when made because it did not disclose that the company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

27. In Sequenom's Form 10-A, filed with the SEC on July 31, 2008, the Company made the following assertion:

> Our research and development efforts in molecular diagnostic products are focused on the development of noninvasive diagnostics (SEQureDx) for use on the MassARRAY system and other platforms. Initially, we are focused on providing this technology, which is noninvasive, using a simple maternal blood draw, for prenatal diagnostics. Our other diagnostic tests are also planned to be noninvasive and are expected to use simple blood draws from patients rather than invasive procedures such as surgery. We plan to initially commercialize this technology through laboratory partners in the form of Laboratory Developed Tests (LDTs), also known as "Home Brews," which is the predominant approach used for current tests such as serum screening and invasive prenatal tests. In addition, following acquisition or build-out, we plan to commercialize this technology through our own CLIA (Clinical Laboratory Improvement Amendments, 1988) licensed laboratory. Concurrent with our LDT commercialization and revenue building activities, we plan to conduct the development activities necessary to file submissions with the Food and Drug Administration (FDA) seeking approval for selected diagnostic tests.

28. This statement was false and misleading when made because it did not disclose that the company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

29. On October 30, 2008, Sequenom issued a press release making the following assertion:

> *Further Positive Results from Down Syndrome Screening Study*: In late September Sequenom announced additional positive results from screening studies for detection of fetal aneuploidy, including Down syndrome, from maternal blood using Sequenom's noninvasive circulating cell-free fetal (ccff) nucleic acid SEQureDx Technology. At the Analyst and Investor Briefing, Sequenom presented data demonstrating complete concordance with clinical results (no false positives and no false negatives) in both first and second trimester samples from an additional 200 (400 in total) prospective samples.

30. This statement was false and misleading when made because it did not disclose that the company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

31. On October 31, 2008, Sequenom filed a 10-Q with the SEC making the following assertion:

> We have announced positive results from screening studies using our noninvasive circulating cell-free fetal nucleic acid SEQureDx™ Technology, which enables the detection of fetal aneuploidy, including Down syndrome, from maternal blood. We reported that data from blinded studies performed by us involving 201 clinical samples collected both prospectively and retrospectively, as well as 219 new clinical samples collected showed that our proprietary test for Down syndrome correctly identified 100% of all Down syndrome samples without any false-positive or false-negative outcomes. Our test demonstrated complete concordance with clinical results in both first and second trimester samples and its ability to correctly identify a Down syndrome positive sample in the first trimester. We anticipate that the population coverage for the test should increase to greater than 95% of the U.S. population. We plan to continue our current development activities through the end of 2008, at which time we will initiate a multi-site 3,000 to 5,000 sample laboratory developed test validation study, which is expected to be completed and submitted for publication at the time of the anticipated commercial launch of the test in June 2009.

32. This statement was false and misleading when made because it did not disclose that the Company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

33. On January 29, 2009, Sequenom filed a form 8-K making the following assertion:

> On January 28, 2009, the registrant announced positive data from prospective clinical studies using the registrant's noninvasive SEQureDx™ technology, which enables the detection of fetal aneuploidy from maternal blood. The registrant reported that the data from blinded studies performed at the registrant's facilities involving 459 new, high prevalence clinical samples collected prospectively (which brings the total number of samples studied to 858), demonstrated that the registrant's proprietary test for Down syndrome correctly identified all eight first trimester Down syndrome samples (i.e., sensitivity or detection rate) with no false positives and no false negatives, as confirmed by chorionic villus sampling. Of the 15 second trimester confirmed Down syndrome samples, the registrant's RNA-based technology detected 14 samples, with one unresolved result reflexed to the registrant's new DNA-based method. The DNA-based method accurately detected Down syndrome. There was one false positive in the second trimester samples, which would be reflexed for confirmatory genetic testing per American College of Obstetricians and Gynecologists guidelines. Based on the results

from the total 858 study samples, including samples as early as eight weeks of pregnancy, the registrant's SEQureDx technology demonstrated a 100% positive predictive value and a 99.9% negative predictive value. At a 99% detection rate, the less than 1% false positive rate demonstrated by the SEQureDx technology exceeds the current standard of care in which the false positive rates are between 10% and 25% dependent on the screening test, and compares favorably to invasive procedures such as amniocentesis.

In addition to the data on the registrant's RNA-based technology, the registrant reported an enhancement to its SEQureDx technology through a new DNA-based approach, which has demonstrated in early studies universal ethnic coverage, high sensitivity and specificity, and the ability to detect Trisomy 21 (Down syndrome), Trisomy 18 (Edwards syndrome) and Trisomy 13 (Patau syndrome) in a single test. The registrant announced that it is developing the DNA-based technology as a reflex test to its current SEQureDx technology. The registrant's management presented early findings regarding this new DNA-based approach from 359 samples. The registrant presented early findings which showed that this new DNA-based method correctly identified all 68 unresolved results reflexed from the RNA method, including one confirmed positive Trisomy 21 sample. In addition, this method correctly identified four confirmed positive Patau syndrome samples and four confirmed positive Edwards syndrome samples.

34. This statement was false and misleading when made because it did not disclose that the Company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

35. On February 11, 2009, Sequenom issued a press release making the following assertion:

Early 2009 Highlights
Announced Additional Positive Results from RNA Down Syndrome Screening Study and Unveiled Breakthrough DNA Approach to Prenatal Diagnostics: Earlier this year, Sequenom announced positive data regarding the performance of its Down syndrome test, including data from 459 new, high-prevalence patient samples, bringing the total number of patient samples studied to 858. Based on the results from total study samples, including samples obtained as early as eight weeks of pregnancy, Sequenom's SEQureDx RNA-based technology demonstrated a 96.6% positive predictive value (PPV) and a 100% negative predictive value (NPV). Sequenom also unveiled a breakthrough DNA-based SEQureDx technology demonstrating, in early studies, universal ethnic coverage, high sensitivity and specificity, and the ability to detect Trisomy 21 (Down syndrome), Trisomy 18 (Edwards syndrome) and Trisomy 13 (Patau syndrome) in a single test.

36. This statement was false and misleading when made because it did not disclose that the company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

37. On March 12, 2009, the Company filed a Form 10-K with the SEC making the following assertion:

> In September 2008 we announced positive results from our Trisomy 21 prenatal test studies using our proprietary RNA-based ccff SEQureDx technology. We reported that data from blinded studies involving 399 clinical samples collected prospectively showed that our proprietary test for Down syndrome correctly identified 100% of all Down syndrome samples without any false-positive or false-negative outcomes. Our test demonstrated complete concordance with invasive procedures such as amniocentesis and chorionic villus sampling (CVS) in both first and second trimester samples.
>
> In January 2009, we announced further positive results from additional Trisomy 21 prenatal test studies using our proprietary RNA-based ccff SEQureDX technology. We presented data for 459 new samples from prospective blinded studies, bringing the total number of samples studied to 858. The test correctly identified all 22 Down syndrome positive samples in the data set including eight first-trimester and 14 second-trimester Down syndrome samples (i.e. 100% sensitivity or detection rate) with a single false positive and no false negatives, as confirmed by CVS or amniocentesis. We also announced an enhancement to our non-invasive SEQureDx trisomy technology utilizing a DNA-based approach. This method demonstrated universal ethnic coverage, high sensitivity and specificity, and the ability to detect Trisomy 21 (Down syndrome), Trisomy 18 (Edwards syndrome) and Trisomy 13 (Patau syndrome) in a single test. The DNA-based test may potentially be used in parallel to the RNA-based method or as a front-line test in its own right. The DNA-based method correctly detected the one homozygous positive Down syndrome sample that the RNA-based method did not resolve (i.e., that had been deemed "inconclusive"). When compared to amniocentesis or CVS, the new DNA-based method correctly identified all 68 homozygotes tested including inconclusive Down syndrome samples and inconclusive Edwards syndrome samples. While we are still working on increasing population coverage for the test, we currently anticipate that the population coverage for the launched test should increase to greater than 95% of the United States population.

- Based on the results from the 858 total study samples, our SEQureDx RNA-based technology demonstrated:

- Specificity of 99.9% (99.2%–100.0%) and 100% sensitivity (87.9%–100.0%) at a 95% confidence interval;

- The Positive Predictive Value is 96.6% (82.8%–99.8%) and the Negative Predictive Value of 100.0% (99.5%–100%) at a 95% confidence interval;

- The SEQureDx RNA test had a total of 106 unresolved results ("inconclusives") due to homozygotes (94) and unacceptable RNA levels (12) or a total of 12.4%. (The DNA-based method, when applied, resolved the no calls of those samples which could be tested);

- SEQureDx is more accurate than commonly employed standard-of-care screening tests, which perform at a 70%-90% detection rate (i.e., sensitivity) with a 90%-95% specificity in practice. SEQureDx even compares favorably to current invasive procedures, such as amniocentesis (which has sensitivity and specificity of approximately 99.5%).

"Specificity" is the probability that the test will be negative if the patient does not have the disease or condition. "Sensitivity" is the probability that the test will be positive if the patient has the disease or condition. "Positive Predictive Value" is the probability that a patient has the disease or condition when his/her test is positive. "Negative Predictive Value" is the probability that a patient does not have the disease or condition when his/her test is negative. The ranges in parentheses are 95% confidence intervals which represent the statistical uncertainty associated with the results based on the sample data.

38. This statement was false and misleading when made because it did not disclose that the Company's mishandling of Sequenom test data rendered the tests unreliable, meaning that the Company's SEQureDx tests were not being conducted properly, that SEQureDx did not offer statistically significant improvements over competing tests, and that these issues made it impossible for Sequenom to bring its new test to market in 2009.

The Truth Is Revealed

39. After the close of trading on April 29, 2009, Sequenom issued a press release revealing the previously-disclosed data regarding the efficacy of SEQureDx had been "mishandled" in a way that revealed "significant concerns" about the integrity of that data.

40. Sequenom further disclosed that it no longer intends to rely on the previously disclosed data, and that it would not be releasing SEQureDx in June 2009.

41. The press release read, in part:

> SAN DIEGO--(BUSINESS WIRE)--SEQUENOM, Inc. (NASDAQ: SQNM - News) announced today that the expected launch of its SEQureDx™ Down syndrome test is delayed, due to the discovery by company officials of employee mishandling of R&D test data and results. Accordingly the company is no longer relying on the previously announced R&D test data and results. SEQUENOM has not changed its plans to develop in parallel its RNA- and DNA-based methods for the Down syndrome test and will endeavor to have a validated test in the fourth quarter of 2009. Under the circumstances, and as supported by key clinical opinion leaders, the company now intends to launch the Down syndrome test upon publication in a peer-reviewed journal of the results from the on-going large, independent clinical studies, which are designed to be practice-changing for Down syndrome testing.
>
> The company's board of directors has formed a special committee of independent directors to oversee an independent investigation of the employees' activity related to the test data and results. The committee has engaged independent counsel to assist the committee in the conduct of the investigation.

42. The Company further revealed that four employees had been suspended in connection with this misconduct, and that the Food and Drug Administration and Securities and Exchange Commission had been informed.

43. On this news, Sequenom was downgraded by analysts at Leerink Swann, Soleil, Auriga U.S.A, Rodman & Renshaw, Collins Stewart, JMP Securities, Oppenheimer, Cantor Fitzgerald and Lazard Capital Mkts.

44. The news shocked the market. In the first hour of trading the day after this revelation, Sequenom shares plunged 77%, or $11.43, to $3.48 on 27 times its average daily volume over the prior 30 days. Ultimately, Sequenom closed at $3.62 on April 30, 2009 – a stunning loss of ***75.72%.***

LOSS CAUSATION

45. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by the Class.

46. During the Class Period, Plaintiff and the Class purchased Sequenom securities at artificially inflated prices and were damaged thereby. The price of Sequenom securities significantly declined when the misrepresentations made to the market, and/or the effects thereof, were revealed, causing investors' losses.

SCIENTER

47. As alleged herein, Defendants acted with scienter in that they knew the public documents and statements issued and disseminated in the name of the Company were materially false and misleading when made; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein, defendants, by virtue of information reflecting the true facts of Sequenom, their control over, and/or receipt and/or modification of, Sequenom's materially misleading misstatements or omissions and/or their associations with the Company which made them privy to confidential proprietary information concerning Sequenom, participated in the fraudulent scheme alleged herein.

48. The facts alleged herein compel a strong inference, that is cogent and at least as compelling as any opposing inference of nonfraudulent intent, that Defendants made materially false and misleading when made statements to the investing public with scienter.

INAPPLICABILITY OF STATUTORY SAFE HARBOR

49. The statutory safe harbor for certain forward-looking statements does not apply to the misrepresentations and omissions alleged in this complaint. Many of the statements were not specifically identified as "forward-looking statements" when made. To the extent that there were any properly identified forward-looking statements, there were no meaningful cautionary statements

identifying the important, then-present factors that could and did cause actual results to differ materially form those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, Defendants are nonetheless liable because at the time each of the misrepresentations was made, the particular speakers knew that the statement was false or misleading at that time.

50. Any warnings or other cautionary language contained in the press releases and other public statements described herein were generic, "boilerplate" statements of risk that would affect any similar company, and misleadingly contained no factual disclosure of any of the problems with the Company which placed the ability of the Company to accurately depict its own financial situations into serious question. As such, any forward-looking statements complained of herein were not accompanied by meaningful cautionary language.

51. Any relevant purported risk disclosures were, in fact, false and misleading when made in and of themselves, by virtue of the fact that the events which the risk disclosures purported to warn against as contingencies had frequently already become a reality or a certainty.

TRANSACTION CAUSATION

52. At all relevant times, the market for Sequenom securities was an efficient market for the following reasons, among others:

(a) At all relevant times during the Class Period, Sequenom's common stock was listed and actively traded on the NASDAQ, a highly efficient National Market.

(b) As a registered and regulated issuer of securities, Sequenom filed periodic reports with the SEC, in addition to the frequent voluntary dissemination of information described in this Complaint.

(c) The Company's stock was followed by numerous financial analysts. Thus, the Company's stock reflected the effect of information disseminated in the market.

53. As a result of the above, the market for Sequenom securities promptly digested current information with respect to the Company from all publicly available sources and reflected such information in the securities' prices. Under these circumstances, all purchasers of Sequenom securities during the Class Period suffered similar injury through their purchase of securities at prices which were artificially inflated by Defendants' misrepresentations and omissions. Thus, a presumption of reliance applies.

CLAIMS FOR RELIEF UNDER THE EXCHANGE ACT

COUNT ONE

(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against All Defendants)

54. Plaintiff incorporates by reference and realleges all preceding paragraphs though fully set forth herein.

55. During the Class Period, Defendants engaged in a plan, scheme, and course of business which operated as a fraud upon Plaintiff and Class Members, and made various untrue statements of material fact and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading to Plaintiff and other Class Members as set forth above. The purpose and effect of this scheme was to induce Plaintiffs and members of the Class to purchase the Company's securities during the Class Period at artificially inflated prices.

56. By reason of the foregoing, Defendants knowingly or recklessly violated § 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they themselves or a person whom they controlled: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of

material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and a course of business that operated as a fraud or deceit upon Plaintiff and other members of the Class in connection with their purchases of the Company's common stock during the Class Period.

57. As a result of the foregoing, the market price of the Company's securities was artificially inflated during the Class Period. In ignorance of the false and misleading nature of the representations described above, Plaintiff and other members of the Class relied, to their detriment, directly on the misstatements or the integrity of the market both as to price and as to whether to purchase these securities. Plaintiff and other members of the Class would not have purchased Sequenom stock at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by Defendants' false and misleading when made statements and omissions. At the time of the purchase of Sequenom securities by Plaintiff and the other members of the Class, the fair market value of said securities was substantially less than the prices paid. Plaintiff and the other members of the Class have suffered substantial damages as a result.

COUNT TWO

(Violations of Section 20(a) of the Exchange Act Against the Individual Defendants)

58. Plaintiff incorporates by reference and realleges all preceding paragraphs as though fully set forth herein.

59. The Individual Defendants are liable for the material misrepresentations and omissions complained of herein under § 20(a) of the Exchange Act in that they functioned as control persons of Sequenom by virtue of their executive and directorial positions with Sequenom, their knowledge and involvement in the business of the Company, their daily access to confidential information regarding the operations and finances of the Company, and their power and ability to make public statements on

behalf of Sequenom to shareholders, potential investors, and the media. As such, they had the power and ability to control the Company's actions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and on behalf of the Class, prays for judgment as follows:

A. Declaring this action to be a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the Class defined herein;

B. Awarding Plaintiff and members of the Class recissory or compensatory damages in an amount which may be proven at trial, together with interest thereon;

C. Awarding Plaintiff and the members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' fees and expert witness fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper including any extraordinary equitable relief and/or injunctive relief as permitted by law or equity to attach, impound or otherwise restrict the Defendants' assets to assure Plaintiff and the members of the Class have an effective remedy.

JURY DEMAND

Plaintiff hereby demands a jury trial.

Dated: May 7, 2009

FINKELSTEIN THOMPSON LLP

Daniel T. LeBel

100 Bush St., Suite 1450
San Francisco, CA 94104
Telephone: (415) 398-8700
Facsimile: (415) 398-8704

Of Counsel:

Donald J. Enright
denright@finkelsteinthompson.com
Michael G. McLellan
mmclellan@finkelsteinthompson.com
1050 30th Street NW
Washington, DC 20007
Telephone: (202) 337-8000
Fax: (202) 337-8090

PLAINTIFF CERTIFICATION

I, Howard Margulies, hereby declare that:

1. I have reviewed a draft Complaint in this class action and have authorized the filing thereof.

2. I did not purchase (or otherwise acquire) or sell securities of Sequenom, Inc., the subject of the Complaint, at the direction of counsel or in the hope to participate in any private action arising under the Securities Act of 1933 or the Securities Exchange Act of 1934.

3. I am willing to serve as a representative plaintiff on behalf of the class defined in the Complaint, including providing testimony at deposition and trial, if necessary.

4. I have engaged in the following transactions involving the securities of Sequenom, Inc.:

Purchases	Trade Date	Price Per Security	Total

see attached

Sales	Date	Price Per Security	Total

5. During the last three years preceding the date of this Certification, I have sought to serve as a representative plaintiff on behalf of a class in the following actions brought under the Securities Act of 1933 or the Securities Exchange Act of 1934: None

6. I will not accept any payment for serving as a representative plaintiff on behalf of the class beyond its pro rata share of any recovery, except as ordered by the Court.

7. Nothing herein shall be construed to be or constitute a waiver of my attorney-client privilege.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 5th day of May, 2009.

Howard Margulies

Howard Margulies

HOWARD MARGULIES
SONM Trades

PRE-CLASS PERIOD TRADES - CLOSED

TRADE DATE		ACTION		# SHRS bought	# SHRS sold	PRICE	NET COST	NET SALES
3/30/07		buy		200		3.39	$686.00	
4/17/07		buy		2,000		3.33	$6,668.00	
5/14/07			sell		1,900	3.82		$7,250.00
5/15/07		buy		1,900		3.50	$6,658.00	
5/21/07			sell		2,200	3.88		$8,528.00
2/28/08		buy		2,000		7.17	$14,348.00	
5/5/08			sell		2,000	7.68		$15,352.00
				6,100	6,100		$28,360.00	$31,130.00

CLASS PERIOD TRADES - CLOSED

TRADE DATE		ACTION		# SHRS bought	# SHRS sold	PRICE	NET COST	NET SALES
10/28/08		buy		1,015		14.23	$14,451.45	
10/28/08			sell		1,015	14.96		$15,176.40
11/19/08		buy		2,000		14.49	$28,988.00	
11/28/08			sell		800	16.92		$13,528.00
12/1/08		buy		800		16.05	$12,848.00	
12/9/08			sell		2,000	17.05		$34,092.00
12/10/08		buy		1,000		16.65	$16,658.00	
12/15/08			sell		1,000	19.55		$19,542.00
12/16/08		buy		1,000		18.88	$18,888.00	
12/16/08			sell		1,000	19.91		$19,902.00
12/22/08		buy		1,000		19.79	$19,798.00	
12/31/08			sell		1,000	20.62		$20,612.00
12/31/08		buy		1,000		20.08	$20,088.00	
1/5/09			sell		1,000	20.85		$20,842.00
1/20/09		buy		500		24.51	$12,263.00	
1/22/09			sell		500	25.89		$12,937.00
12/22/08	J	buy		500		19.53	$9,773.00	
1/5/09	J		sell		500	22.33		$11,157.00
1/12/09	J	buy		500		21.81	$10,913.00	
1/15/09	J		sell		500	24.79		$12,387.00
				9,315	9,315		$164,668.45	$180,175.40

CLASS PERIOD TRADES - OPEN

June 3, 2008 to April 29, 2009

TRADE DATE		ACTION	# SHRS bought	# SHRS sold	PRICE	NET COST	NET SALES
1/22/09		buy	500		24.94	$12,478.00	
1/27/09		buy	500		23.92	$11,968.00	
1/27/09		buy	500		22.92	$11,468.00	
2/3/09		buy	500		19.94	$9,978.00	
2/3/09		buy	500		18.91	$9,463.00	
2/4/09	J	buy	700		17.58	$12,314.00	
			3,200	0		$67,669.00	

POST-CLASS PERIOD

TRADE DATE	ACTION	# SHRS bought	# SHRS sold	PRICE	NET COST	NET SALES
4/30/09	buy	2,000		3.31	$6,628.00	
		2,000	0		$6,628.00	

J denotes joint account - all others in IRA account

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS000546
Cashier ID: mbain
Transaction Date: 05/07/2009
Payer Name: JANNEY AND JANNEY

CIVIL FILING FEE
For: MARGULIES VS SEQUENOM INC
Case/Party: D-CAS-3-09-CV-000990-001
Amount: $350.00

CHECK
Check/Money Order Num: 247717
Amt Tendered: $350.00

Total Due: $350.00
Total Tendered: $350.00
Change Amt: $0.00

There will be a fee of $45.00
charged for any returned check.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

FILED
09 MAY -7 PM 3:57
CLERK, U.S. DISTRICT COURT
DISTRICT OF CALIFORNIA
DEPUTY

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Howard Margulies

DEFENDANTS
Sequenom, Inc.; Harry Stylli; Paul Hawran

(b) County of Residence of First Listed Plaintiff: Bristol, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant: San Diego, CA
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Daniel T. LeBel; Finkelstein Thompson LLP
100 Bush St. #1450 San Francisco, CA 94104
(415) 348-8700

Attorneys (If Known)
n/a
'09 CV 990 JAH WMC
BY FAX

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☒ 1	Incorporated or Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☒ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☒ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
15 U.S.C. 78

Brief description of cause:
Violation of Section 10(b) of Exchange Act

VII. REQUESTED IN COMPLAINT: ☑ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 — **DEMAND $** — CHECK YES only if demanded in complaint: **JURY DEMAND:** ☑ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE See Attachment A — DOCKET NUMBER

DATE: 05/07/2009 — SIGNATURE OF ATTORNEY OF RECORD [signature]

FOR OFFICE USE ONLY

RECEIPT # 546 AMOUNT $350— APPLYING IFP JUDGE MAG. JUDGE

TB 05/07/09

ORIGINAL

ATTACHMENT A

JUDGE	DOCKET NO.
Judge William Q. Hayes	3:09-cv-00922-WQH-CAB
Judge Larry Alan Burns	3:09-cv-00921-LAB-WMC
Judge Jeffrey T. Miller	3:09-cv-00951-JM-BLM
Judge William Q. Hayes	3:09-cv-00949-WQH-BLM
Judge Marilyn L. Huff	3:09-cv-00955-H-NLS